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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/981,452 | 10/17/2001 | Richard E. Marshall | 1202P-000322 | 5907 |

27572 7590 02/26/2003

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EXAMINER

BROWN, PETER R

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3636

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/981,452

Applicant(s)

MARSHALL ET AL.

Examiner

Pet r R. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6 . 6) ☐ Other: .

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Claims 1-10,12-14, and 17-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 17, the "dual-rate spring mechanism" has not been sufficiently defined, nor does the claim adequately set forth the structure that provides the first and second effective spring rates. The same applies to claims 2,5 and 18, as it is not clearly set forth how the leaf spring includes two effective lengths that comprise the two spring rates.

In claims 3,4,6,7,12,13,14,19 and 20, the effective lengths have not been sufficiently defined in terms of the leaf spring and its connection to the castings, nor has it been set forth how these connections define both the first and second effective lengths, and the difference therebetween.

Claim 22 improperly depends from itself.

In claim 23, it is not clearly set forth how the spindle assembly "operably interconnects said rocker mechanism".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,10,17,23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by either of Roper or Hodgdon.

Figure 2 of Roper and figure 1 of Hodgdon show tilting chair assemblies that utilize "dual-rate" spring mechanisms, wherein the resistance for forward tilt is different than that for rearward tilt. Both references utilize upright posts or "spindles" to provide swiveling movement of the seats.

Claims 1-7,10,17-20 and 26, so far as definite and understood, are rejected under 35 U.S.C. 102(b) as being anticipated by either Apissomian or Finney et al.

Apissomian (figs. 5,6) and Finney et al (fig. 3) teaches the use of leaf springs to provide a rocking means for a chair. In both references, the leaf springs appear to show a "dual-rate" tendency, as in the case of Apissomian, the contact of the leaf spring with the abutment surfaces 47,48 would provide a difference in the spring rate, and in the case of Finney et al, the length of the effective spring rate for rearward tilting is greater than that for forward tilting.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,9 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apissomian.

While the patent to Apissomian (fig. 6) shows a single stop 50, to have provided a plurality of stops thereon to help limit both frontward and rearward

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movement, would have been an obvious modification to one with ordinary skill in the art, as would the provision of boots thereon, which are conventional and commonly utilized for preventing pinching between moving parts.

Whether the chair is adapted to recline relative to the base is not considered a patentable distinction, as such chairs are old and well known in the art, and to have utilized the leaf spring mechanism therefor would have been well within the level of skill in the art.

Claims 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by either Ward or Pentzien.

Both Ward (fig. 5) and Pentzien (figs. 3-6) disclose a plurality of angled leaf springs that interconnect a chair to a base. Note that while the first and second effective lengths of the leaf springs may be equal, no difference in the effective lengths or spring rate has been set forth in the claims.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Pentzien or Ward in view of Apissomian.


To have provided a plurality of stops for the rocking mechanisms of Pentzien and Ward to help limit both frontward and rearward movement, would have been an obvious modification to one with ordinary skill in the art, as such is shown to be conventional by Apissomian. The provision of boots thereon, which are conventional and commonly utilized for preventing pinching between moving parts, would have been an obvious modification to one with ordinary skill in the art.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stewart shows various features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 703-308-2103.



Peter R. Brown
Primary Examiner
Art Unit 3636

prb
February 21, 2003